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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA

4 James E. Bates,

5 Plaintiff

6 v.

7 Las Vegas Metropolitan Police Department, et  
8 al.,

9 Defendants

Case No.: 2:22-cv-00957-CDS-EJY

Order Adopting Magistrate Judge's Report  
and Recommendation

[ECF No. 19]

10 United States Magistrate Judge Elayna J. Youchah issued a Report and Recommendation  
11 (R&R) following a review of plaintiff James Bates' first amended complaint (ECF No. 16), which  
12 alleges civil rights violations against defendant Las Vegas Metropolitan Police Department and  
13 several officers. In the R&R, she recommends that I dismiss parts of Bates' complaint with leave  
14 to amend his claims and dismiss other parts with prejudice. *See generally* ECF No. 19. The  
15 deadline by which Bates was permitted to file objections to the R&R was March 27, 2023. *Id.* at  
16 13; LR IB 3-2. To date, no objections have been filed. The R&R also gave plaintiff the  
17 opportunity to file a second amended complaint on or before April 10, 2023. Bates chose to file a  
18 second amended complaint on April 3, 2023. ECF No. 21.

19 Because Bates has not objected to the R&R, I adopt it in its entirety and dismiss the first  
20 amended complaint. "[N]o review is required of a magistrate judge's report and recommendation  
21 unless objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *Thomas*  
22 *v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).  
23 While *de novo* review is not required because the plaintiff does not object to the R&R, I  
24 nevertheless conduct one here. *See* 28 U.S.C. § 636(b)(1). A magistrate judge's order should only  
25 be set aside if it is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28  
26 U.S.C. § 636(b)(1)(A). A magistrate judge's order is "clearly erroneous" if the court has "a

1 definite and firm conviction that a mistake has been committed.” *United States v. U.S. Gypsum Co.*,  
2 333 U.S. 364, 395 (1948); *Burdick v. Comm’r IRS*, 979 F.2d 1369, 1370 (9th Cir. 1992). “An order is  
3 contrary to law when it fails to apply or misapplies relevant statutes, case law[,] or rules of  
4 procedure.” *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at \*1 (D. Nev. Sept.  
5 16, 2014).

6 Based on my consideration of the record, lack of objections, and the law, I find  
7 Magistrate Judge Youchah’s R&R well-reasoned and neither clearly erroneous nor contrary to  
8 the law. Accordingly, the Magistrate Judge’s Report and Recommendation (ECF No. 19) is  
9 **ADOPTED** in its entirety.

10 **Conclusion**

11 IT IS THEREFORE ORDERED that the Magistrate Judge’s Report and  
12 Recommendation [ECF No. 19] is **ADOPTED** in its entirety.

13 IT IS FURTHER ORDERED that plaintiff’s Fourth Amendment claim against the Las  
14 Vegas Metropolitan Police Department be dismissed with prejudice.

15 IT IS FURTHER ORDERED that plaintiff’s Fourteenth Amendment Due Process  
16 excessive force claim against all LVMPD officers be dismissed with prejudice.

17 IT IS FURTHER ORDERED that plaintiff’s Right to Privacy claim under Article 1,  
18 Section 18 of the Nevada Constitution against all defendants be dismissed without prejudice but  
19 without leave to amend as it appears amendment would be futile.

20 Plaintiff’s proposed second amended complaint (ECF No. 21) will be screened in due  
21 course.

22 IT IS SO ORDERED.

23 DATED: April 27, 2023

24   
25 Cristina D. Silva  
26 United States District Judge